

THOMAS JACKSON ET AL., APPELLANTS V. WILLIAM E. ASHTON.

The caption of the bill was in the following terms : " Thomas Jackson, a citizen of the state of Virginia, William Goodwin Jackson and Maria Congreve Jackson, citizens of Virginia, infants, by their father and next friend, the said Thomas Jackson v. The Reverend William E. Ashton, a citizen of the state of Pennsylvania. In equity." In the body of the bill it is stated that " the defendant is of Philadelphia."

By the court : The title or caption of the bill, is no part of the bill, and does not remove the objection to the defects in the pleadings. The bill and proceedings should state the citizenship of the parties, to give the court jurisdiction of the case.

The only difficulty which could arise to the dismissal of the bill, presents itself upon the statement, " that the defendant is of Philadelphia." If this were a new question, the court might decide otherwise ; but the decisions of the court, in cases which have heretofore been before it, have been express upon the point.

APPEAL from the circuit court of the United States for the Pennsylvania district.

After the argument was commenced by Mr Key for the appellant, the court stated that an objection to the jurisdiction of this case, arose from the omission to state the citizenship of the defendant, William E. Ashton, in the bill, as filed in the circuit court, and appearing on the printed copy of the record. The caption of the bill was in the following terms.

" Thomas Jackson, a citizen of the state of Virginia, William Goodwin Jackson and Maria Congreve Jackson, citizens of Virginia, infants, by their father and next friend, the said Thomas Jackson v. The Reverend William E. Ashton, a citizen of the state of Pennsylvania. In equity."

The bill proceeds to state that the complainants and the appellants are citizens of the state of Virginia. The only description of the defendant is, " William E. Ashton, of the city of Philadelphia," which is in the body of the bill.

Mr Peters, for the appellee, stated, that although aware of the objection to the jurisdiction, in consequence of there being an omission to state the citizenship of the appellee, yet he was

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not disposed to urge the exception. If the court could take jurisdiction of the case, the appellee was entirely willing; indeed, he was anxious that the court should hear and determine the cause. He wished it to be understood that the appellee made no objection to the court's proceeding in the case.

Mr Key contended, that the caption of the bill was part of it, and that taken with the bill, the citizenship of the defendant was sufficiently shown. The disposition of this court has been manifested in many cases, to get rid of technical difficulties of this kind.

Mr Chief Justice MARSHALL delivered the opinion of the Court.

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The only difficulty which could arise to the dismissal of the bill, presents itself upon the statement, "that the defendant is of Philadelphia." This, it might be answered, shews that he is a citizen of Pennsylvania.

If this were a new question, the court might decide otherwise; but the decision of the court, in cases which have heretofore been before it, has been express upon the point; and the bill must be dismissed for want of jurisdiction.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the eastern district of Pennsylvania, and was argued by counsel; on consideration whereof, it is the opinion of this court, that the said circuit court could not entertain jurisdiction of this cause, and that, consequently, this court has not jurisdiction in this cause, but for the purpose of reversing the decree of the said circuit court, entertaining said jurisdiction: whereupon, it is ordered, adjudged and decreed by this court, that the decree of the said circuit court be, and the same is hereby reversed, and that this appeal be, and the same is hereby dismissed. All of which is hereby ordered to be certified to the said circuit court, under the seal of this court.